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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,374	08/02/2001	Berith Porso	000500-300	3321

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EXAMINER	
ANDERSON, CATHARINE L	
ART UNIT	**PAPER NUMBER**
3761	

DATE MAILED: 01/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/857,374	Applicant(s) PORSO ET AL.	
	Examiner C. Lynne Anderson	Art Unit 3761	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 January 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a)☒ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: 1-13.

   Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

GLENN K. DAWSON
PRIMARY EXAMINER

Continuation of 5. does NOT place the application in condition for allowance because: The Applicant's argument have been considered but are not persuasive. Beihoffer et al. (6,222,091) disclose the claimed invention.

With respect to the Applicant's argument that Beihoffer fails to disclose a degree of neutralization of 20%, since the embodiment dislcosed in column 27, table 1 comprises a mixture of poly(DAEA) and polyacryilic acid (20% neutralized), it is noted that the degree of neutralization is determined by the percent of acidic groups that are neutralized. The poly(dimethyaminoethyl acrylamide) does not comprise any acidic groups and therefore does not affect the degree of neutralization. Beihoffer may claim only polymers with a 16% degree of neutralization, but also discloses an embodiment comprising a 20% degree of neutralization.

With respect to the Applicant's argument that Beihoffer fails to disclose the swelling properties and pH of the instant invetion, it is noted that the Applicant is relying on features which are not claimed.

With respect to Applicant's argument that Beihoffer fails to disclose separate regions, it is noted that Beihoffer discloses in column 46, lines 29-31, an embodiment comprising separate regions, each comprising superabsorbent material having differing degrees of neutralization.

In response to the Applicant's argument that the Examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See In re McLaughlin, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). The selection of the embodiment disclosed by Beihoffer which reads on the claimed invention does not constitute hindsight analysis.